

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)

PETITIONER,)

VS.) **2:05-cv-01243-JHH**

KELLY LEWIS,)

RESPONDENT.)

MEMORANDUM OF DECISION

On October 20, 2005 the court entered an order (Doc. #12) finding Kelly Lewis, President, Lewis Plumbing, Inc., in civil contempt of this court for his failure to comply with the August 17, 2005 order (Doc. #4) requiring him to produce documents as discussed in the October 20, 2005 order. To coerce Lewis to comply in the future with the production order and to compensate the United States "for the expenses and/or losses incurred as a result of Lewis' failure to comply," the order (Doc. #12) imposed on Lewis a civil fine of \$100 a day (excluding Saturdays, Sundays and federal holidays), beginning November 14, 2005, and continuing until Lewis purged himself of the civil contempt in the manner set forth in the order. The accrual of the daily fine was also subject to the possible termination by the United States petitioning the court "to convert then accrued and unpaid fines to a sum certain" so that final judgment in favor of petitioner for the sum certain could be entered, "thereby terminating this action to the end that petitioner can proceed to collect such fines." On February 27, 2006

the United States filed a document (Doc. #15) which , among other things, requested a hearing to determine the amount of a civil fine to be imposed on Respondent Lewis as a result of the October 20, 2005 order. That request was denied by the March 1, 2006 order (Doc. #16), which the court has now reconsidered since nothing further has occurred in this action. On such further review, the court concludes that it misconstrued petitioner's February 27, 2006 request. The court is now satisfied petitioner was electing to exercise its right to convert the fine to a sum certain so as to terminate this action and be in a position to collect the fine designed to compensate petitioner for its expenses and losses incurred as a result of Lewis' conduct.

There were seventy-two days, excluding Saturdays, Sundays and federal holidays, between November 14, 2005 when the civil fine began until February 27, 2006 when the document (Doc. #15) now being reconsidered was filed. Accordingly, the court will by separate order enter a judgment in favor of the United States of America and against Kelley Lewis for \$7,200, thereby terminating this action.

The clerk is directed to mail a copy of this memorandum of decision, as well as the accompanying final judgment to Lewis at 4221 Shades Crest Road, Birmingham, Alabama 35244.

DONE this the 11th day of October, 2006.



SENIOR UNITED STATES DISTRICT JUDGE